

By: Murphy

H.B. No. 1964

Substitute the following for H.B. No. 1964:

By: Larson

C.S.H.B. No. 1964

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority and liability of owners and managers of  
3 apartment houses, manufactured home rental communities,  
4 condominiums, and multiple use facilities in charging tenants for  
5 submetered and nonsubmetered master metered water and wastewater  
6 services.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Section 13.501, Water Code, is amended by adding  
9 Subdivisions (1-a) and (9) and amending Subdivision (5) to read as  
10 follows:

11 (1-a) "Condominium manager" or "manager of a  
12 condominium" means a condominium unit owners' association  
13 organized under Section 82.101, Property Code, or an incorporated  
14 or unincorporated entity comprising the council of owners under  
15 Chapter 81, Property Code.

16 (5) "Owner" means the legal titleholder of an  
17 apartment house, manufactured home rental community, or multiple  
18 use facility and any individual, firm, or corporation expressly  
19 identified in a lease agreement as ~~[that purports to be]~~ the  
20 landlord of tenants in the apartment house, manufactured home  
21 rental community, or multiple use facility. The term does not  
22 include the manager of an apartment home unless the manager is  
23 expressly identified as the landlord in the lease agreement.

24 (9) "Utility costs" or "utility service costs" means

1 any amount charged to the owner by a retail public utility for water  
2 or wastewater service.

3 SECTION 2. Section 13.503, Water Code, is amended by adding  
4 Subsection (f) to read as follows:

5 (f) This section does not limit the authority of an owner,  
6 operator, or manager of an apartment house, manufactured home  
7 rental community, or multiple use facility to charge, bill for, or  
8 collect rent, an assessment, an administrative fee, a fee relating  
9 to the upkeep or management of chilled water, boiler, heating,  
10 ventilation, air conditioning, or other building system, or any  
11 other amount that is unrelated to utility costs.

12 SECTION 3. Section 13.5031, Water Code, is amended to read  
13 as follows:

14 Sec. 13.5031. NONSUBMETERING RULES. (a) Notwithstanding  
15 any other law, the utility commission shall adopt rules and  
16 standards governing billing systems or methods used by manufactured  
17 home rental community owners, apartment house owners, condominium  
18 managers, or owners of other multiple use facilities for prorating  
19 or allocating among tenants nonsubmetered master metered utility  
20 service costs. In addition to other appropriate safeguards for the  
21 tenant, those rules shall require that:

22 (1) the rental agreement contain a clear written  
23 description of the method of calculation of the allocation of  
24 nonsubmetered master metered utilities for the manufactured home  
25 rental community, apartment house, or multiple use facility;

26 (2) the rental agreement contain a statement of the  
27 average manufactured home, apartment, or multiple use facility unit

1 monthly bill for all units for any allocation of those utilities for  
2 the previous calendar year;

3 (3) except as provided by this section, an owner or  
4 condominium manager may not impose additional charges on a tenant  
5 in excess of the actual charges imposed on the owner or condominium  
6 manager for utility consumption by the manufactured home rental  
7 community, apartment house, or multiple use facility;

8 (4) the owner or condominium manager shall maintain  
9 adequate records regarding the utility consumption of the  
10 manufactured home rental community, apartment house, or multiple  
11 use facility, the charges assessed by the retail public utility,  
12 and the allocation of the utility costs to the tenants;

13 (5) the owner or condominium manager shall maintain  
14 all necessary records concerning utility allocations, including  
15 the retail public utility's bills, and shall make the records  
16 available for inspection by the tenants during normal business  
17 hours; and

18 (6) the owner or condominium manager may charge a  
19 tenant a fee for late payment of an allocated water bill if the  
20 amount of the fee does not exceed five percent of the bill paid  
21 late.

22 (b) This section does not limit the authority of an owner,  
23 operator, or manager of an apartment house, manufactured home  
24 rental community, or multiple use facility to charge, bill for, or  
25 collect rent, an assessment, an administrative fee, a fee relating  
26 to the upkeep or management of chilled water, boiler, heating,  
27 ventilation, air conditioning, or other building system, or any

1 other amount that is unrelated to utility costs.

2 SECTION 4. Section 13.505, Water Code, is amended to read as  
3 follows:

4 Sec. 13.505. RESTITUTION [~~ENFORCEMENT~~]. (a) In this  
5 section, "overcharge" means the amount, if any, a tenant is charged  
6 for submetered or nonsubmetered master metered utility service to  
7 the tenant's dwelling unit after a violation occurred relating to  
8 the assessment of a portion of utility costs in excess of the amount  
9 the tenant would have been charged under this subchapter.

10 (b) The utility commission has exclusive jurisdiction for  
11 violations under this subchapter.

12 (c) If [~~In addition to the enforcement provisions contained~~  
13 ~~in Subchapter K, if~~] an apartment house owner, condominium manager,  
14 manufactured home rental community owner, or other multiple use  
15 facility owner violates a rule of the utility commission regarding  
16 utility costs, the person claiming the violation may file a  
17 complaint with the utility commission. If the utility commission  
18 determines that the owner or condominium manager overcharged a  
19 complaining tenant for water or wastewater service from the retail  
20 public utility, the utility commission shall require the owner or  
21 condominium manager, as applicable, to repay the complaining tenant  
22 the amount overcharged.

23 (d) Nothing in this section limits or impairs the utility  
24 commission's enforcement authority under Subchapter K  
25 [~~submetering of utility service consumed exclusively within the~~  
26 ~~tenant's dwelling unit or multiple use facility unit or~~  
27 ~~nonsubmetered master metered utility costs, the tenant may recover~~

1 ~~three times the amount of any overcharge, a civil penalty equal to~~  
2 ~~one month's rent, reasonable attorney's fees, and court costs from~~  
3 ~~the owner or condominium manager. However, an owner of an apartment~~  
4 ~~house, manufactured home rental community, or other multiple use~~  
5 ~~facility or condominium manager is not liable for a civil penalty if~~  
6 ~~the owner or condominium manager proves the violation was a good~~  
7 ~~faith, unintentional mistake].~~

8 SECTION 5. Section 13.506, Water Code, is amended by adding  
9 Subsection (d) to read as follows:

10 (d) There is a rebuttable presumption that an owner of an  
11 apartment house or a multiple use facility or a manager of a  
12 condominium that adopted an existing program to submeter or  
13 allocate water from a previous owner or manager has not committed an  
14 act giving rise to a cause of action under this section.

15 SECTION 6. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2017.